IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO.669 OF 2006

In

CRIMINAL APPEAL NO.611 OF 2006

Smt.Maya Shyamlal Rijwani : Applicant

(Orig.Accused No.3)

V/s.

The State of Maharashtra : Respondent

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WITH

CRIMINAL APPLICATION NO.670 OF 2006

In

CRIMINAL APPEAL NO.611 OF 2006

Mrs.Ritu Manoj Rijwani : Applicant

(Orig.Accused No.2)

V/s.

The State of Maharashtra : Respondent

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Mr.Sudhir C. Halli for the applicants.

Mr.V.B.Konde-Deshmukh, Addl. Public Prosecutor for the State.

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CORAM : D.G.DESHPANDE & S.A.BOBDE,JJ.

DATE : JULY 20, 2006.

P.C.

1. Heard the Advocate for the applicants and the learned Addl. Public Prosecutor for the State.

2. Accused Nos.2 and 3 were convicted under section 302 read with section 34 of the Indian Penal Code. The complainant in this case is the very son of accused No.3 who has lodged a report against his own mother and brother's wife. The trial Court has believed the evidence of the son against his mother.

3. So far as the applicant (accused No.2) in Criminal Application No.670 of 2006 is concerned, the case of the prosecution is that the complainant Ashok (P.W.1) and accused No.1 Manoj are brothers. Accused No.2 is the wife of accused No.1 Manoj. There were disputes between Ashok and the accused regarding a house property. The accused wanted to oust the complainant Ashok. The accused disconnected electricity supply and water connection of complainant Ashok since December 2003. On 14.9.2004, MSEB officers came to instal electricity meter in the house of the complainant, but it was objected to by accused Nos.1 and 3. There was a quarrel. Then in continuation of that quarrel, at about 7 p.m., accused Nos.1, 2 and 3 entered the house of Ashok. Accused No.1 Manoj caught hold of

Ashok and beaten him while accused No.2 brought kerosene and poured on the person of the complainant Ashok's wife Kiran. Accused No.3 lighted the match stick and set Kiran on fire.

4. Criminal Application Nos.669 of 2006 and 670 of 2006 are filed by accused Nos.3 and 2, respectively. The evidence of the prosecution is in the nature of a dying declaration of Kiran which has been recorded by I.O. PSI Ganesh (exh.96). That supports the police complaint made by Ashok, her husband. This is a case where there is not only a dying declaration, but also the evidence of an eye-witness and, therefore, the prayer for bail of accused No.2 cannot be considered.

5. So far as accused No.3 is concerned, even her role is not less serious than that of accused no.2. However, the Advocate for the accused has contended that accused No.3 is approx. 65 years of age. She is suffering from migraine. She is not likely to abscond, if released on bail. Therefore, on humanitarian grounds and considering these aspects, the prayer for bail of accused No.3 at least should be considered.

6. We have given our anxious consideration to the submissions made and considering the circumstances, in our

opinion, accused No.3 deserves bail. Therefore, we pass the following order:-

O R D E R

The prayer for bail of the applicant (original accused No.2) in Criminal Application No.670 of 2006 is rejected and the prayer for bail of original accused No.3 is granted. The applicant Smt.Maya Shyamlal Rijwani (original accused No.3) in Criminal Application No.669 of 2006 be released on bail on P.R. bond of Rs.10,000/- (Rupees Ten Thousand only) with one or two sureties in the like amount. Her substantive sentence is suspended pending the appeal. Fine, if any, to be paid before her release on bail. The police to verify if accused No.3 has a passport before releasing her on bail. If accused No.3 has a passport, the same should be taken charge of.

7. Criminal Applications stand disposed of in the above terms.

D.G. DESHPANDE, J.

S.A. BOBDE, J.